

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
CASE NO. 1:14-CV-954**

STUDENTS FOR FAIR ADMISSIONS, )  
INC., )  
                                  )  
Plaintiffs, )  
                                  )     **JOINT MOTION TO PRODUCE  
DOCUMENTS PURSUANT TO  
THE AMENDED PROTECTIVE  
ORDER**  
v. )  
                                  )  
THE UNIVERSITY OF NORTH )  
CAROLINA AT CHAPEL HILL, et al., )  
                                  )  
Defendants. )  
                                  )  
                                  )

**JOINT MOTION TO PRODUCE DOCUMENTS PURSUANT TO THE  
AMENDED PROTECTIVE ORDER**

Plaintiff Students for Fair Admissions, Inc. and Defendants The University of North Carolina at Chapel Hill, et al. respectfully request that the Court order production of certain documents pursuant to the Amended Confidentiality and Protective Order (Doc 61). In support of the motion, the parties state as follows:

1. On August 28, 2015, Defendants filed the parties' Joint Stipulation and Motion to Amend Protective Order (Doc. 59) in advance of producing 1,250 redacted individual applications for undergraduate admission to the University of North Carolina at Chapel Hill and related applicant data. Defendants filed the Stipulation and Motion in order to ensure full compliance with the privacy protections conferred by the Family Educational Right and Privacy Act ("FERPA"), 20 U.S.C. § 1232g, and its implementing

regulations, 34 C.F.R. pt. 99t, and by North Carolina General Statutes § 132-1.1(f). In the Stipulation, Defendants also represented that the production would be in compliance with the requirements of FERPA, its implementing regulations, and North Carolina law.

2. On September 8, 2015, the Court issued an order (Doc. 62) granting the parties' Joint Stipulation and Motion to Amend Protective Order. The Court's order modified the Protective Order in this case to provide additional protection to undergraduate application and related applicant admissions data requested by Plaintiff and ordered production of the same.

3. The Court's order authorizing that production led to Defendants providing notice to the applicants and subsequently to making the production pursuant to the confidentiality protections of the Amended Protective Order.

4. Defendants now request a parallel order in advance of producing additional individual applications and related applicant data. Specifically, Defendants are obligated to produce redacted versions of 625 undergraduate application files for applicants seeking admission for Fall 2016 to the University of North Carolina at Chapel Hill, and another 625 redacted application files for applicants seeking admission for Fall 2017 (for a total of 1,250 application files), as well as certain redacted applicant data from electronic databases for the each of those admissions cycle (collectively, the "2016 and 2017 Application Files and Data").

5. Defendants are obligated to produce the 2016 and 2017 Application Files and Data because Plaintiff, in its Requests for Production, sought documents on which Defendants intend to rely to support the defense of their undergraduate admissions

practices. Defendants have determined that the 2016 and 2017 Application Files and Data are responsive to Plaintiff's request.

6. Defendants intend to produce these materials after providing individual notice in the same manner as preceded Defendants' production of the prior 1,250 individual applications. Additionally, in producing the 2016 and 2017 Application Files and Data pursuant to the Amended Protective Order, Defendants represent that, following the entry of the Court's order, their production of the application files and related data will comply with the requirements of FERPA and its implementing regulations and with North Carolina General Statutes § 132-1.1(f).

7. While the parties may have different positions on the requirements of FERPA, the parties agree that the University is obligated to comply with FERPA's provisions.

8. As discovery continues, Defendants may identify other documents containing student information that Defendants will intend to rely on in defense of their case, and therefore would be obligated to produce to Plaintiff in response to its document requests. Production of those documents that contain confidential student information may warrant a further court order. Plaintiff reserves all rights to request additional application files and applicant data from UNC's databases.

Accordingly, the parties jointly respectfully request that the Court enter the Order, attached hereto as Exhibit 1, ordering Defendants to produce, pursuant to the Amended Confidentiality and Protective Order:

1. The 2016 and 2017 Application Files and Data, and;

2. Other materials containing student information that Defendants later determine are responsive to Plaintiff's Requests for Production and therefore must be produced.

Respectfully submitted this 14th day of April, 2017.

JOSH STEIN  
Attorney General

/s/ Stephanie Brennan  
Stephanie Brennan  
Special Deputy Attorney General  
NC State Bar No. 35955  
E: sbrennan@ncdoj.gov

/s/ Matthew Tulchin  
Matthew Tulchin  
Assistant Attorney General  
NC State Bar No. 43921  
E: mtulchin@ncdoj.gov  
NC Department of Justice  
Post Office Box 629  
Raleigh, NC 27602-0629  
T: (919) 716-6920

/s/ Michael Scudder  
Michael Scudder  
Skadden, Arps, Slate, Meagher & Flom  
LLP  
155 North Wacker Driver  
Chicago, IL 60606-1720  
(312) 407-0877  
E: michael.scudder@skadden.com

/s/ Lisa Gildford  
Lisa Gilford  
Skadden, Arps, Slate, Meagher & Flom  
LLP  
300 South Grand Ave.  
Suite 3400  
Los Angeles, CA 90071  
(213) 687-5130  
E: lisa.gilford@skadden.com

*Attorneys for Defendants*

/s/ Thomas R. McCarthy  
Thomas R. McCarthy  
Consvoy McCarthy PLLC  
3033 Wilson Boulevard, Suite 700  
Arlington, Virginia 22201  
(703) 243-9423  
E: tom@consvoymccarthy.com

/s/ William S. Consvoy  
William S. Consvoy  
Consvoy McCarthy PLLC  
3033 Wilson Boulevard, Suite 700  
Arlington, Virginia 22201  
(703) 243-9423  
E: will@consvoymccarthy.com

/s/ J. Michael Connolly  
J. Michael Connolly  
Consvoy McCarthy PLLC  
3033 Wilson Boulevard, Suite 700  
Arlington, Virginia 22201  
(703) 243-9423  
E: mike@consvoymccarthy.com

/s/ Alan M. Ruley  
Alan M. Ruley  
NC State Bar No. 16407  
Bell, Davis & Pitt, P.A.  
P.O. Box 21029  
Winston Salem, NC 27120-1029  
(336) 714-4147  
E: aruley@belldavis Pitt.com

*Attorneys for Plaintiff*

This matter having come before the Court upon Motion by Defendants hereto and the Court having reviewed the Motion and being fully advised;

It is hereby Ordered that the terms of the Motion set forth above is hereby entered as an Order of this Court on this \_\_\_\_ day of \_\_\_\_\_, 2017.

---

Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on April 14, 2017, I filed a true and correct copy of the foregoing MOTION TO PRODUCE DOCUMENTS PURSUANT TO THE AMENDED PROTECTIVE ORDER with the Clerk of Court using the CM/ECF system.

This 14th day of April, 2017

/s/ Michael Scudder  
Michael Scudder  
Skadden, Arps, Slate, Meagher &  
Flom LLP  
155 North Wacker Driver  
Chicago, IL 60606-1720  
(312) 407-0877  
E: michael.scudder@skadden.com